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DEPARTMENT OF JUSTICE Notice of Lodging of Consent Decree Between the United States and Seaboard Foods LP Under 28 CFR 50.7, notice is hereby given that on September 15, 2006, a proposed consent decree ("Consent Decree") between the United States and Seaboard Foods LP ("Seaboard") was lodged with the United States District Court for the Western District of Oklahoma (Civil Action Number: 06-cv-00989-R). The Consent Decree would resolve claims asserted by the United States in [[Page 56554]] a Complaint filed on the same day against Seaboard seeking injunctive relief and the assessment of civil penalties for violations of the Clean Water Act (CWA), 33 U.S.C. 1311 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., at Seaboard's concentrated animal feeding operations (CAFOs) in the states of Oklahoma, Colorado, Kansas, and Texas. Specifically, the Complaint alleges that, due to construction activity at its Dorman South Sow Farm Site, located in Beaver County, Oklahoma, Seaboard was required to obtain coverage under the National Permit Discharge Elimination System ("NPDES") General Permit for Construction Activities (or obtain an individual NPDES permit) and to develop and implement a stormwater pollution prevention plan. In the course of these construction activities, as well as construction activities at one or more of its other CAFO facilities, Seaboard allegedly disturbed greater than five acres and discharged pollutants, including eroded soil, sediment, and other substances associated with earth-disturbing activities, into waters of the United States, without a permit, as required by the Clean Water Act. In addition, the United States alleges that Seaboard had releases of ammonia emissions in excess of 100 pounds per day at its Choate Sow Farm, located in Kingfisher County, Oklahoma, as well as at one or more other facilities owned by Seaboard. The Complaint alleges that Seaboard failed to timely notify the U.S. Environmental Protection Agency's National Response Center, as required by section 103(a) of CERCLA, 42 U.S.C. 9603(a), regarding these releases. The Consent Decree provides for the payment of a civil penalty of \$205,000 and requires Seaboard to implement stormwater discharge and erosion measures at 16 farms, as well as to establish and maintain buffer strips surrounding sensitive wetland areas at 17 farms--which are located in Kingfisher, Beaver, or Texas County, Oklahoma. In addition, for five years after entry, the Consent Decree requires Seaboard to apply for and comply with the terms of the Construction General Permit at any new or existing Seaboard facility where there is construction that disturbs greater than one acre, regardless of whether the construction is likely to result in a discharge to a water of the United States. The Consent Decree acknowledges that Seaboard has certified its compliance with the requirements set forth in section 103(a) of CERCLA, 42 U.S.C. 9603(a) and section 304 of the Emergency Planning and Community Right to Know Act ("EPCRA"), 42 U.S.C. 11004, to report continuous releases of certain air emissions from listed facilities in Oklahoma, Texas, Kansas and Colorado. As such, the Consent Decree resolves the civil claims of the United States under section 109(c) of CERCLA, 42 U.S.C. 9609(c), and section 325 of EPCRA, 42 U.S.C. 11045, through the date of lodging, for Seaboard's failure to notify the National Response Center, in violation of section 103 of CERCLA, 42 U.S.C. 9603, and for Seaboard's failure to notify the state emergency response commissions and local emergency planning committees, in violation of section 304 of EPCRA, 42 U.S.C. 11004, at each of the listed facilities. Finally, the Consent Decree notes that EPA issued a Monitoring Request to Seaboard Farms, Inc. (now Seaboard Foods LP) and Mission

Funding, LLC on April 2, 2002, pursuant to section 114 of the Clean Air Act, 42 U.S.C. 7414, directing it to undertake, complete, and report upon the monitoring, measuring, and estimating of certain air pollutants. The Consent Decree resolves any civil claims of the United States under section 113(b) of the CAA, 42 U.S.C. 7413(b), for failure to comply with this Request, and states that entry of the Decree will serve to withdraw the Request. In this regard, the lodging of this Decree on or before September 15, 2006, serves to validate a separate Order of the U.S. EPA Environmental Appeals Board which directly addresses the monitoring of air pollutants from Seaboard's facilities, entitled Consent Agreement and Proposed Final Order for Animal Feeding Operations--Seaboard Foods LP (August 21, 2006). The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to United States v. Seaboard Food LP, Civil Action No. 06-cv-00989-R; D.J. Ref. No. 90-5-1-1-07570. The Consent Decree may be examined at the Office of the United States Attorney, Western District of Oklahoma, 210 Park Avenue, Suite 400, Oklahoma City, OK 73102, and at U.S. EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202-2733. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, to

[http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$15.25 (61 pages at 25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. Thomas A. Mariani, Jr., Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division. [FR Doc. 06-8287 Filed 9-26-06; 8:45 am]  
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